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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
|-----------------|-------------|----------------------|---------------------|
| 09/397,314      | 09/16/99    | MADDOX               | J 98217             |

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QM02/0817

EXAMINER

BUI, T

ART UNIT PAPER NUMBER

3754

DATE MAILED: 08/17/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/397,314**

Applicant(s)

**Maddox et al.**

Examiner

**Thach Bui**

Group Art Unit  
**3754**



☐ Responsive to communication(s) filed on \_\_\_\_\_

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

- ☒ Claim(s) 1-22 is/are pending in the application.
- Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☒ Claim(s) 19, 21, and 22 is/are allowed.
- ☒ Claim(s) 1-5, 8-12, 16, 18, and 20 is/are rejected.
- ☒ Claim(s) 6, 7, 13-15, and 17 is/are objected to.
- ☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- ☒ Notice of References Cited, PTO-892 ✓
- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2 and 3 ✓ ✓
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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## DETAILED ACTION

### *Information Disclosure Statement*

1. Applicant's prior art citations filed September 16, 1999 and December 6, 1999 have been received and made of record.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 1-5, 8-9, 10-12, 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Udall in view of Coopridner et al.

Udall discloses a pump for use with a source of fluid comprising a base (11), a first connector (70) and an outlet (97) in communication with the ambient atmosphere. The pump housing comprises a back plate (10) and a cover (34, 36, 37) hingedly connected to the back plate for movement between an open and a closed position. The back plate and the cover create a chamber for receipt of the source of fluid when the cover is in the closed position (see Figure 1). The device also includes a flexible pressure member (84) forming a chamber that is expelled fluid when it is collapsed and drawn the fluid in to the chamber when it is expanded. The pump

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comprises a collapsible bag (65) contained the fluid for dispensing, and a valve means (87) for selectively closing off and opening the first connector. The valve means includes a ball valve (91). The second connector (95) in communication with the outlet comprises a spring and a ball engaged with the spring (see Figure 2). Further, the second connector comprises an elongate hollow body (see Figure 2) interconnecting the base and the atmosphere, including an annular rib (86) on its external surface and a nozzle (97). Udall has any remaining features of the claimed invention but lacks the pressure member being transparent and configured as a hemisphere flexible member. Coopridier teaches a hemisphere flexible member (16) and outlet means with their axes disposed in planes substantially normal to each other (see Figure 1). It would have been obvious to one having an ordinary skill in the art of the time the invention was made to have a pressure member being transparent and configured as a hemisphere flexible member in helping the user to estimate the amount of the fluid contained within and the hemisphere configuration with a flattened area at its apex is to maximize the distribution of the material.

4. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Udall in view of Cassia.

Udall has all the features of the invention but lacks a releasable nozzle. Cassia teaches a releasable nozzle (40) (see Figure 1). It would have been obvious to one having an ordinary skill in the art of the time the invention was made to have a releasable nozzle so that the user can interchange the nozzle according to the type of fluid is in use.

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*Allowable Subject Matter*

5. Claims 6-7, 13-15, and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. Claims 19, and 21-22 are being allowable.

*Conclusion*

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thach Bui whose telephone number is (703) 305-0063. The examiner can normally be reached on Monday through Friday from 7:30 to 4:30 .

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver, can be reached on (703) 308-2582. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3588.

T.B.



August 15, 2000

T.B. 08/15/00